

Vanessa R. Waldref  
 United States Attorney  
 Eastern District of Washington  
 George J.C. Jacobs III  
 Assistant United States Attorney  
 Post Office Box 1494  
 Spokane, WA 99210-1494  
 Telephone: (509) 353-2767

UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

2:22-CR-00022-RMP

Plaintiff,

vs.

United States Corrected Sentencing  
 Memorandum

RHONDA S. ACKERMAN,

Defendant.

Plaintiff, United States of America, by and through Vanessa R. Waldref, United States Attorney, for the Eastern District of Washington, and George J.C. Jacobs III, Assistant United States Attorney for the Eastern District of Washington, submits the following United States corrected sentencing memorandum.<sup>1</sup>

In 2015, 2016 and 2017, Defendant engaged in a scheme through which she embezzled \$440,315.25 from Spokane County Department of Risk Management and failed to file federal income tax returns reporting her income. According to the IRS Criminal Investigation Special Agent who investigated the criminal tax case,

Ackerman used nominees to cash fraudulently received voucher checks and give her the cash in an attempt to conceal her income. All documents and transactions were conducted in the nominees' names. Ackerman dealt with large amounts of cash. It cannot be stated with absolute certainty what the proceeds were spent

<sup>1</sup> There was a typographical error on line 5, page 2 of ECF No. 61. Therefore, the government is filing this corrected sentencing memorandum.

1 on. A review of Ackerman's bank statements showed that Ackerman deposited  
2 some of the proceeds into her bank account and it appears many of the  
3 transactions were used for every day living expenses. A large portion of the cash  
4 Ackerman received was spent gambling. Ackerman withdrew approximately  
5 \$117,000 at Northern Quest Casino.

6 Defendant abused her position as a liability claims technician and used her access  
7 to risk management software to enrich herself by: (1) creating bogus "vendor" and  
8 vendor IDs" for multiple nominees, (2) creating and submitting bogus liability claims  
9 vouchers to Spokane County, (3) cunningly waiting for the Director of Risk  
10 Management to be out of the office at which time she would seek approval of the  
11 fraudulent vouchers from the director's backup, (4) delivering the bogus vouchers to  
12 the auditor's office for payment and had the vouchers held there for her to pick up, (5)  
13 picking up the vouchers and contacting the nominee to have them cash the checks at  
14 local banks, (6) paying each nominee between \$100 and \$600 for cashing the checks,  
15 and (7) keeping the remaining amount for her own personal use and benefit. The  
16 investigation revealed that Spokane County approved disbursement payments as a result  
17 of fictitious third-party claims Defendant had processed on behalf of 45 individuals  
18 through the auditor's office and Department of Risk Management. Between 2007 and  
19 2016, her scheme resulted in the theft or embezzlement of \$1,378,541 from Spokane  
20 County.

21 The government respectfully requests that Defendant be sentenced to 24 months'  
22 incarceration (to run concurrent to her state sentence),<sup>2</sup> one year of supervised release,  
23 and restitution in the amount of \$96,363.00. Such a sentence is warranted based upon  
24 Defendant's extended criminal activity, her history and characteristics, and the need to

---

25 <sup>2</sup> In Spokane County Superior Court (22-1-10632-32), Ackerman pleaded guilty to  
26 Theft in the First Degree for stealing \$1,378,541 from Spokane County while working  
27 as a liability claims technician between 2007 and 2016. She was sentenced to serve a  
28 prison term of 1 year and one day and to repay that amount in restitution.

1 avoid sentencing disparities between such white-collar defendants and others in the  
2 criminal justice system.

3 On February 7, 2023, Defendant pleaded guilty to Counts 1 and 2 of the  
4 Indictment, which charged her with willfully failing to file federal income tax returns  
5 for the 2015 and 2016 calendar years, in violation of 26 U.S.C. § 7203. ECF No. 51.

### 6 **Calculation of Tax Loss**

7 While the parties did not agree to a specific tax loss in the plea agreement,  
8 Defendant acknowledged that the government would recommend Defendant's Base  
9 Offense Level is 14, based on a tax loss of more than \$40,000 but less than \$100,000.  
10 ECF No. 51, ¶ 7(a). Regarding restitution, Defendant agreed she owes restitution in the  
11 amount of \$96,363.<sup>3</sup> ECF No. 51, ¶ 11.

12 The Sentencing Guidelines and controlling case law make clear that tax loss for  
13 Guidelines purposes is not limited to the tax loss charged but includes the tax losses  
14 resulting from the relevant pattern of conduct, which includes uncharged conduct that  
15 was part of the same scheme. *See* USSG §2T1.1 comment, (n.2) ("In determining the  
16 total tax loss attributable to the offense (see § 1B1.3(a)(2)), all conduct violating the tax  
17 laws should be considered as part of the same course of conduct or common scheme or  
18 plan unless the evidence demonstrates that the conduct is clearly unrelated."). Here, the  
19 tax losses flowing from this course of conduct include Defendant's failure to file tax  
20 returns and report to the IRS taxable income of \$272,837.32 in 2014, \$220,162.70 in  
21  
22  
23

---

24  
25 <sup>3</sup> The government notes that it made a computational error in the plea agreement.  
26 According to IRS Criminal, the correct amount is \$125,256.12. On April 7, 2023, the  
27 government notified defense counsel and the Probation Office of its computational  
28 error.

1 2015 and \$154,020.01 in 2016. According to IRS Criminal Investigation, Defendant's  
2 tax due and owing is \$125,256.25.<sup>4</sup>

3  
4 **Enhancement for Income from Criminal Activity USSG §2T1.1(b)(1)**

5 Pursuant to USSG §2T1.1(b), Defendant's offense level is increased two-levels  
6 because she failed to report income exceeding \$10,000 in any year from criminal  
7 activity. Of the income that Defendant did not report, far more than \$10,000 was  
8 income from criminal activity each year, specifically Theft in the First Degree or  
9 embezzlement of monies totaling \$212,129.92 in 2014, \$147,966.68 in 2015 and  
10 \$80,218.65 in 2016. Application Note 4 provides that "criminal activity" means "any  
11 conduct constituting a criminal offense under federal, state, local or foreign  
12 law." *Id.* Defendant's Theft in the First Degree is at a minimum a state crime. *See,*  
13 *e.g.*, RCW 9A.56.030. Moreover, the evidence gathered in the investigation amply  
14 demonstrated Defendant tried to conceal her theft from Spokane County by creating  
15 fictitious third-party claims and using others in her scheme.

16 **Application of Guidelines and Section 3553(a) Factors**

17 Pursuant to the plea agreement, the government recommends Defendant's base  
18 offense level is 14, based on a tax loss of over \$40,000 but less than \$100,000. It also  
19 recommends a two-level increase because Defendant failed to report income exceeding  
20 \$10,000 in any year from criminal activity. After timely acceptance of responsibility,  
21 Defendant's total offense level would be 13.<sup>5</sup> Based on CHC IV, her advisory  
22 guidelines sentencing range is 24-30 months.

23  
24  
25 <sup>4</sup> A tax loss of \$125,256.25 increases the base offense level from a 14 to a 16. USSG  
26 §2T4.1(F).

27 <sup>5</sup> Unless Defendant agrees to a written modification of the plea agreement, the  
28 government is bound by its terms; therefore, it is recommending a total offense level of  
United States Sentencing Memorandum- 4

## **Nature, Circumstances, and Seriousness of the Offenses**

The nature and circumstances of the offense demonstrate the defendant's clear criminal intent to engage in an extensive theft scheme. Ackerman's theft of over \$400,000 from Spokane County was not a one-time act that might be attributable to a singular breach of the trust placed in her by her employer. On the contrary, it was a multi-year scheme in which Defendant stole money from Spokane County. She had ample opportunity to reflect on the wrongfulness of her course of conduct, and rather than put an end to her scheme, she chose to continue unlawfully enriching herself. Time after time, check after check, transaction after transaction, Defendant knew that what she was doing was wrong, and that it was a crime.

Compounding the seriousness of the conduct is the manner in which Defendant attempted to conceal her scheme. Rather than bear the burden of her fraudulent conduct alone, Ackerman enlisted others, fabricating vouchers, and otherwise attempting to avoid detection through deception and fraud.

The circumstances of the offense also evidence the absence of any mitigating circumstances. Defendant did not steal the money out of selfless concerns, imminent needs, or the inability to earn the money through legitimate means. Indeed, she was gainfully employed as a liability claims technician.

Defendant's crime falls squarely within the class of cases to which the applicable Guidelines are addressed. Thus, consideration of the nature and circumstances of the offense favors a sentence within the advisory Guidelines range. Because the nature and circumstances of this offense also reflect blatant, repetitive, and persistent criminal behavior, this factor suggests that a sentence of incarceration is appropriate.

## **History and Characteristics of Defendant**

---

13 (based on a tax loss of \$96,363), rather than a total offense level of 15 (based on a tax loss of \$125,256.12) as correctly calculated by the Probation Office.

1 Defendant's conduct not only included three years of tax crimes, but also years  
2 of other crimes and misconduct. PSR, ¶ 41, 44. The tax crimes were part and parcel of  
3 thefts from Defendant's employer – ongoing for many years. Defendant willfully  
4 disregarded the tax laws, embezzled county funds for her own personal use and benefit  
5 and used nominees to further her scheme.

### 6 **Need to Promote Respect for the Law and Just Punishment**

7 The criminal tax laws are designed to protect the integrity of the nation's tax  
8 system, which is dependent upon a system of voluntary compliance. The tax laws of  
9 our country, in effect, reflect an honor system under which citizens are required to  
10 cooperate with the government. It is vital that when a citizen is non-compliant, that  
11 citizen is appropriately punished. *See United States v. Zukerman*, 897 F.3d 423, 427 (2d  
12 Cir. 2018) (explaining that “‘tax crimes represent an especially damaging category of  
13 criminal offenses,’ which ‘strike at the foundation of functioning government’”) (citations omitted).

14 Failure to sentence Defendant to a term of incarceration would send the wrong  
15 message – the message “that would-be white-collar criminals stand to lose little more  
16 than a portion of their ill- gotten gains and practically none of their liberty.” *United*  
17 *States v. Martin*, 455 F.3d 1227, 1240 (11th Cir. 2006). It is important both to “the  
18 deterrence of white-collar crime (of central concern to Congress), and “the  
19 minimization of discrepancies between white- and blue-collar offenses, and limits on  
20 the ability of those with money or earning potential to buy their way out of jail.” *United*  
21 *States v. Mueffelman*, 470 F.3d 33, 40 (1st Cir. 2006) (cited and quoted with approval  
22 in *United States v. Levinson*, 543 F.3d 190, 197 (3d Cir. 2008) (noting that  
23 “probationary sentences for white-collar crime raise concerns of sentencing disparities  
24 according to socio-economic class.”). A term of incarceration at the low-end of the  
25 Guidelines is required to promote respect for the law and provide just punishment for  
26 this Defendant in this case.

### 27 **Need to Afford Adequate Deterrence**

1 The Sentencing Guidelines provide that deterrence should be the primary  
2 consideration when sentencing defendants for tax crimes. Because of the limited  
3 number of criminal tax prosecutions relative to the estimated incidence of such  
4 violations, deterring others from violating the tax laws is of the utmost importance when  
5 punishing criminal tax violations. USSG § 2T1, introductory cmt. (2016). Here,  
6 Defendant's willful refusal to pay her fair share, along with her continued conduct,  
7 demonstrate that both specific and general deterrence are necessary.

8 General deterrence through serious sentences for criminal tax fraud is an essential  
9 means of minimizing the ever-increasing amount of money estimated to be lost each  
10 year through tax fraud. An IRS study of tax compliance estimates that only 83.1% of  
11 individuals are compliant, leaving a yearly tax gap of over \$458 billion dollars in  
12 unreported and uncollected taxes. *See* "Tax Gap Estimates for Tax Years 2008-2010,"  
13 April 2016 (Att. O). Hundreds of billions of dollars are lost annually because people  
14 like Defendant shirk their responsibilities as American taxpayers.

15 Widespread noncompliance with the tax laws is thus an important consideration  
16 when sentencing for tax offenses. Meaningful sentences that through their terms speak  
17 loudly are necessary to deter such conduct. Absent such deterrence, others with the  
18 means and opportunity to enrich themselves at the cost of other taxpayers will cynically  
19 conclude that the potential rewards of such criminal activity outweigh the risks of being  
20 caught and punished. The sentence in this case should send a strong message to would-  
21 be tax cheats that a term of imprisonment is a reality for willfully failing to file tax  
22 returns and report income. The sentence should also assure law-abiding taxpayers that  
23 they are not foolish for paying their fair share of taxes.

24 Our tax system depends on the voluntary compliance of honest taxpayers. A  
25 sentence of imprisonment promotes voluntary compliance by making clear that there  
26 are consequences for hiding income from the government. Sentencing Defendant to a  
27 term of incarceration at the low-end of the Guidelines provide will convey the message  
28



1 to others that systematic and willful failure to file returns and report income will be met  
2 with strong punishment.

### 3 **The Need to Avoid Unwarranted Sentencing Disparity**

4 The legislative history of the Sentencing Reform Act of 1984, which created the  
5 United States Sentencing Commission, made clear that one of the Act's goals was to  
6 rectify the serious problem in the criminal justice system that white-collar offenders  
7 were not being adequately punished. *See* S. Rep. No. 98-225, at 77 (1983) (“[S]ome  
8 major offenders, particularly white-collar offenders ... frequently do not receive  
9 sentences that reflect the seriousness of their offenses.”). Then-Judge Breyer, an  
10 original member of the Sentencing Commission, explained:

11 The Commission found in its data significant discrepancies between pre-  
12 Guideline punishment of certain white-collar crimes, such as fraud, and other  
13 similar common law crimes, such as theft. The Commission's statistics indicated  
14 that where white collar fraud was involved, courts granted probation to offenders  
15 more frequently than in situations involving analogous common law crimes;  
16 furthermore, prison terms were less severe for white-collar criminals who did not  
17 receive probation. To mitigate the inequities of these discrepancies, the  
18 Commission decided to require short but certain terms of confinement for many  
white collar offenders, including tax, insider trading, and antitrust offenders, who  
previously would have likely received only probation.

19 *See* Stephen Breyer, *The Federal Sentencing Guidelines and the Key Compromises*  
20 *Upon Which They Rest*, 17 Hofstra L. Rev. 1, 20-21 (1988). In considering the issue of  
21 unwarranted disparities in sentences, the Court should consider the need to avoid  
22 sentencing disparities between this crime and other crimes motivated by the desire to  
23 obtain money –not just disparities between this tax crime and other tax crimes, but also  
24 disparities between this crime and drug crimes, for instance. The need to avoid  
25 disparities between such crimes and the gulf between white collar sentences and non-  
26 white collar sentences calls strongly for a sentence of incarceration here where a county  
27 employee choose for many years to deliberately flout the tax law and steal from the  
28 county.



**Conclusion**

The government respectfully submits that a sentence at the low-end of the advisory Guidelines is sufficient, but not greater than necessary, to achieve the purposes set forth in 18 U.S.C. § 3553.

Dated: May 17, 2023.

Vanessa R. Waldref  
United States Attorney

s/ George J.C. Jacobs III  
George J.C. Jacobs III  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that on May 17, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the counsel of record.

s/George J.C. Jacobs III  
George J.C. Jacobs III  
Assistant United States Attorney